

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed March 17, 2008. Claims 33-41 are cancelled and new claims 42-44 are added. Claims 1-32 and 42-44 are now pending in view of the above amendments. Support for the new claims can be found in the application as filed, for example at paragraphs 48-52. Examination of the new claims 42-44 and reconsideration of claims 1-32 is respectfully requested in view of the following remarks.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. Rejection Over the Prior Art

The Examiner rejects claims 1-5 and 9-32 under U.S.C. § 102(b) as being anticipated by *Hunsicker et al.* (United States Patent No. 6,130,343). The Examiner also rejects dependent claims 6- 8 under 35 U.S.C. § 103 as being unpatentable over *Hunsicker et al.* as applied to claims 1-5 and 9-32 above and further in view of *Anderson et al.* (U.S. Patent No. 2,791,584). Because *Hunsicker* does not teach or suggest each and every element of the rejected claims, and because *Anderson* cannot overcome the deficiencies of *Hunsicker*, Applicants respectfully traverse this rejection in view of the following remarks.

In each of present independent claims 1 and 21, the recited steps include spraying a liquid (or solution) onto tocopheryl succinate and then mixing in a granulator. The claims do not recite spraying the liquid onto a fluidized bed of tocopheryl succinate. Present independent claim 1 recites, *inter alia*:

mixing a binder with the tocopheryl succinate substance to produce a mixture;
spraying a liquid onto the mixture in a granulator;
mixing the liquid with the mixture in the granulator

Present independent claim 21 recites, *inter alia*:

mixing a binder with a liquid to produce a solution;
spraying the solution onto the tocopheryl succinate substance in a granulator;
mixing the solution with the tocopheryl succinate substance in the granulator to produce a mixture

In contrast, *Hunsicker* teaches: “contacting a tocopheryl succinate powder with a solution of a ... binder, said tocopheryl succinate being maintained in a fluidized bed during said contacting by passage of a fluidizing gas through said bed.” In other words, *Hunsicker* teaches spraying the binder onto a fluidized bed of the powder, it does not teach the presently claimed steps.

Tocopheryl succinate can be difficult to handle, as noted in the Background section of the present application, “Tocopheryl succinate has poor flow properties and is waxy and tacky at room temperature, making it difficult to handle in relatively pure form.” Specification at para. [0006]. *Hunsicker* struggles with Tocopheryl succinate in that: “[t]he temperature ... of the fluidizing gas must remain sufficiently low when introduced into the bed. ... such that the bed of tocopheryl succinate remains in a fluidized state during the mixing and evaporating steps” and “the particle size of the resultant product cannot be easily managed when using a fluidizing bed

granulation apparatus to mix the tocopheryl succinate powder with the binder solution.”

Specification at para. [0008].

The presently claimed invention overcomes these shortcomings of *Hunsicker* by avoiding spraying the binder onto a fluidized bed of tocopheryl succinate.

Since *Hunsicker* does not teach the methods being claimed, Applicants respectfully submit that claims 1 and 21 are patentable over *Hunsicker*. The respective dependent claims are likewise patentable over *Hunsicker* for at least this reason, in addition to the further limitations they recite. Accordingly, Applicants respectfully request that the rejection of claims 1-5 and 9-32 under 35 U.S.C. § 102(b) be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Any fees incident to this Amendment may be charged to Deposit Account 08-2665.

Dated this 17th day of September, 2008.

Respectfully submitted,

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